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Game On! Microsoft and Activision Deal is One Step Closer to Actual Reality

Minding Your Business on **September 28, 2023**

On January 18, 2022, Microsoft's acquisition of Activision, one of the world's most-valuable gaming companies, was announced. In April 2023, the United Kingdom's Competition and Markets Authority (CMA) blocked the deal on concerns that the deal could "alter the future of the fast-growing cloud gaming market, leading to reduced innovation and less choice for UK gamers over the years," a decision that Microsoft appealed to a Competition Appeal Tribunal. A few months later, in July 2023, as previously reported in Minding Your Business, the FTC's challenge to the deal in the United States fell short, leaving the UK as the only competition authority preventing the closing of the deal.

To address the CMA's original concern regarding the cloud gaming market, Microsoft submitted a revised proposal in August for the CMA to review. Under its August proposal, Microsoft would no longer purchase the cloud gaming rights held by Activision. Instead, these rights would be sold to Ubisoft, an independent video game publisher, before the acquisition of Activision was finalized.

On September 22, 2023, the CMA issued a press release in which it accepted that the "sale of Activision's cloud gaming rights to Ubisoft substantially addresses previous concerns and opens the door to the deal being cleared." Under this new deal, the CMA stated, "Ubisoft will be free to offer Activision's games both directly to consumers and to all cloud gaming service providers however it chooses…".

The CMA also appeared to be satisfied with the proposed deal. Although the CMA identified "limited residual concerns with the new deal" in its full text decision, such as "the possibility for certain provisions within the Ubisoft Divestment Agreement to be circumvented, terminated, or not enforced" giving Microsoft the opportunity to "foreclose rival cloud gaming providers," it noted in its press release that Microsoft "has put forward remedies which the CMA has provisionally concluded should address these issues."

Although the CMA opened a consultation period on these proposed remedies until October 6, its provisional acceptance of the deal should clear the path, once again, for the Microsoft-Activision deal to close by the October 18 deadline.

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